

In re) Fair Hearing No. B-06/08-266
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 Appeal of)

The petitioner appeals a decision by the Department for Children and Families, that petitioner needs to sign a repayment agreement before the Department can advance funds for the cost of petitioner's Medicare Part B until the Social Security Administration completes paperwork to reinstate the Medicare Buy-in through the Department.

1. The petitioner receives Social Security Disability. The petitioner's primary diagnosis is Obsessive Compulsive Disorder.

2. The Department had been providing petitioner medical benefits including the payment of petitioner's Medicare Part B premium to the Social Security Administration.¹ On or about March 10, 2008, the Department sent petitioner a Review Reminder Notice because it was time

¹ In addition, petitioner also received Food Stamp and the review reminder included information for his continuing eligibility. Petitioner's

for a benefits redetermination. The Review Reminder informed petitioner that he needed to send his completed review application to the Department by April 1, 2008 and that if they did not hear from him, his benefits would end April 30, 2008.

3. Petitioner testified that after receiving the review reminder, he called his caseworker for an appointment because he did not feel comfortable completing the application on his own. Petitioner explained that he told his caseworker that he would come to see the caseworker the next day at a set time. Petitioner believed that he had an appointment because his caseworker did not tell petitioner that he was unavailable for an appointment. Petitioner came to the district office and waited to see his caseworker. He waited approximately 1.5 to 2 hours. He saw his caseworker come to the receptionist's desk and heard his caseworker tell the receptionist that he was not in and would not see petitioner. According to petitioner, his caseworker did not attempt to set up an appointment with him.

receipt of Food Stamps was not interrupted and his Food Stamps are not part of the within fair hearing.

4. On or about April 18, 2008, the Department sent petitioner a notice that his health care benefits would end April 30, 2008 because he had not returned his application.

5. On or about May 15, 2008, the Department sent petitioner a notice that they would stop paying for Medicare Part B as of June 1, 2008. Petitioner was informed he would need to pay for his Medicare Part B directly to the Social Security Administration.

6. Petitioner was seen by B.P., his caseworker's supervisor, who helped petitioner with his paperwork. As a result, petitioner's eligibility for Medical Health Coverage was reinstated as of May 1, 2008 pursuant to a May 23, 2008 notice. In addition, the Department sent petitioner a subsequent notice dated June 15, 2008 that petitioner was eligible for the Medicare Part B buy-in by the Department as of June 1, 2008. Petitioner was further informed that the Social Security Administration could take three to four months to make the change for receipt of the Medicare Part B premium from the Department. In the meantime, petitioner's Part B premium would be deducted by the Social Security Administration and he would be reimbursed by the Social Security Administration for the monies they withheld from his monthly checks once they took payment from the Department.

7. B.P. testified that in hardship cases, the Department will issue a check to cover the withheld Medicare Part B premium provided the individual signs a repayment agreement to reimburse the Department when the Social Security Administration repays the individual. B.P. offered this option to petitioner.

8. The petitioner refused to sign a repayment agreement. The petitioner believes that if his caseworker had seen him, there would have been no lapsed coverage by the Department of the Medicare Part B buy-in. He feels he should not be penalized for what happened. Petitioner believes that the Department should have honored his request for an interview.

ORDER

The Department's position that funds cannot be advanced without a repayment agreement is affirmed.

REASONS

Under the Medicaid regulations, the Department can pay an individual's Medicare Part B premium if certain criteria are met. M200.4. Once an individual becomes eligible for the Medicare buy-in, the individual's eligibility is subject to periodic reviews. M131.

In petitioner's case, there is no gap in his eligibility for the Medicare buy-in program. But, there is a gap in the Department's direct payment of the Medicare Part B premium because of the delays in the recertification process that led to a closure notice.

Petitioner is correct that his request for an interview should have been honored. It is immaterial why his caseworker could not see petitioner when petitioner came to the district office; efforts should have been made to schedule an appointment.

The Department has offered to advance petitioner funds equal to the amount the Social Security Administration will deduct from his monthly check until the Social Security Administration completes their paperwork to allow for Department payment for the period of June 1, 2008 through petitioner's eligibility period. All the Department is asking is reimbursement once the Social Security Administration remits the withheld funds to petitioner.

The offer is fair and keeps each party in the same monetary position they would have been in if there were no gap in the Department's payment of the Medicare Part B premium. To do otherwise would give petitioner a windfall or

monetary damages. The Board has no authority to give monetary damages. 3 V.S.A § 3091.

Based on the above, the Department is affirmed. If petitioner wishes to accept an advance, he will need to sign the repayment agreement.

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